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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/17/2003

Gregg L. Sheddy

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Black & Decker Inc.
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EXAMINER

LEE, LAURA MICHELLE

ART UNIT

PAPER NUMBER

3724

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05/13/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/688,668	Applicant(s) SHEDDY ET AL.	
	Examiner LAURA M. LEE	Art Unit 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 January 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 66-79 is/are pending in the application.
- 4a) Of the above claim(s) 70-79 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 66-69 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This office action is in response to the amendment filed 1/11/2008 in which claims 1-5 and 66-79 are pending, claim 1 is currently amended and claims 70-79 are new.

Response to Arguments

2. Applicant's arguments with respect to claims 1-5 have been considered but are moot in view of the new ground(s) of rejection.

Response to Amendment

3. The amendment filed 1/11/2008 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: "a single pole switch" as recited in new claim 70, the new drawing Fig. 1A and added limitations to the specification. Although the specification provides support for a "single throw, double pole switch" as mentioned on page 27, paragraph [00133], there is no mention of a single pole switch. The new drawing Fig. 1A provides for additional features and arrangements not previously shown in the original drawings.

Applicant is required to cancel the new matter in the reply to this Office Action.

Allowable Subject Matter

4. The indicated allowability of claims 66-69 is withdrawn in view of the newly discovered reference(s) to Ceroll et al. (U.S. Patent 2001/0032534), and Wang (U.S. Patent 6,508,281). Rejections based on the newly cited reference(s) follow.

Election/Restrictions

5. Newly submitted claims 70-79 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

Group A (Claims 1-5, and 66-71) directed to a saw with a switch electrically connected to a motor.

Group B (claim 72) directed to a saw with an extension pan removably coupled to the front end or the back end of at least one of the main drain pan and the base.

Group C (claims 73 and 74) directed to a saw with a table having first and second bearings, where a position of the second bearing relative to the table is adjustable to allow the first bearing and the second bearing to be out of alignment and located at different distances from the rail.

Group D (claims 75 and 76) directed to a saw with a rail attached to the base in a manner permitting adjustment of the angular position of the rail, and a method for adjusting the angular orientation of such a rail.

Group E (claims 77 and 78) directed to a saw with a stand attachable to the base of the saw.

Group F (claim 79) directed to a saw with a table that includes a lip extending below the table to at least partially cover the rail to inhibit fluid from entering the rail.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 72-79 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Drawings

6. The drawings were received on 1/11/2008. These drawings are not acceptable. The previous drawing objection addressed in the action mailed on 6/21/2007 is rescinded.

Claim Objections

7. Claims 68 and 71 are objected to because of the following informalities:

In claim 68, line 2, there is a lack of antecedent basis for “the first and second legs.”

In claim 71, there is a lack of antecedent basis for “the single throw switch.”

Appropriate correction is required.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-4, 70 and 71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Griffin (U.S. Patent 4,055,206) in view of Miyamoto. (U.S. Patent 4,958,544). Griffin discloses a saw (Figure 3) comprising a base (body, 12); a frame assembly (legs, 34,39 wheels, 21,22) disposed on the base (70); a first rail (i.e. 65) disposed on the frame assembly (34,39,21,22), the first rail (65) having a longitudinal axis; a table (69) slidably disposed on the first rail, the table (69) being movable in a direction substantially parallel to the longitudinal axis; a saw assembly (64) disposed on at least one of the base (12) and the frame assembly, the saw assembly comprising a support assembly (extended arm, near ref. 84), a motor assembly (80) supported by the support assembly (arm), and a cutting wheel (saw blade) driven by the motor assembly, a switch (as seen on the extended arm, although not numbered). However, as Griffin does not disclose the operation of the saw assembly, Griffin does not disclose any bevel movement of the saw blade nor the relative movement of the support assembly with respect to the motor.

Therefore, attention is directed to the Miyamoto radial saw. Miyamoto discloses that it is old and well known to provide an angular adjustment of a saw blade to provide

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for positioning the blade in various bevel angle positions. As Griffin is silent as to the table saw's pivoting mechanism, and as Miyamoto discloses an equivalent radial arm, it would have been obvious to one having ordinary skill in the art at the time of the invention to have employed a pivoting mechanism such as taught by Miyamoto on the radial saw of Griffin to adjust the angle of the blade assembly or alternatively to have substituted the Miyamoto saw for the Griffin saw as the saws are art equivalents for performing the same cutting functions. Therefore, the modified device of Griffin discloses a the support assembly (extended arm; Miyamoto guide arm 100) as remaining stationary relative to pivotal movement of the motor assembly (80; Miyamoto 515) and the motor assembly being pivotable about a pivot axis (bevel axis) substantially parallel to the longitudinal axis, and a cutting wheel (saw blade) driven by the motor assembly the cutting wheel having a plane substantially parallel to the pivot axis; and a switch (Griffin not numbered; on/off switch 730 Miyamoto) electrically connected to the motor assembly and disposed on the support assembly above the table (69) and proximate to the motor assembly (80) so that, when the motor assembly is pivoted (bevel angle) about the pivot axis, the support assembly (arm, 100) and the switch (730) remain stationary relative to the pivotal movement of the motor assembly.

In regards to claim 2, the modified device of Griffin discloses wherein the first rail (65) has a first end (front end), and the table (69) is moveable beyond the first end (i.e. away from and to the right as shown in Figure 3).

In regards to claim 3, the modified device of Griffin discloses wherein the table (69) is movable beyond the base (12) (i.e. removable).

In regards to claim 4, the modified device of Griffin discloses wherein the base (12) is formed as a tub (i.e. an enclosed container, see Figure 1).

In regards to claims 70 and 71, the modified device of Griffin discloses wherein the switches is a single throw double pole switch (on/off switch 729/730)(see Miyamoto col. 16, lines 52-68).

10. Claims 66-69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ceroll et al. (U.S. Patent 2001/0032534), herein referred to as Ceroll, in view of Wang (U.S. Patent 6,508,281). In regards to claims 66 and 67, Ceroll discloses a saw (Figure 1) comprising a base (12); a frame assembly (i.e. the four sides that are mounted to the base and contain the saw assembly) disposed on the base (12); a first rail (i.e. not numbered; formed by the longitudinal slot on the work table 14) disposed on the frame assembly, the first rail (longitudinal slot) having a longitudinal axis; a saw assembly (22) disposed on at least one of the base (12) and the frame assembly (71), the saw assembly comprising a support assembly (i.e. pivot quadrants 32, support plate, 34, locking system 36), a motor assembly (28) pivotally supported by the support assembly, the support assembly remaining stationary relative to pivotal movement of the motor assembly and the motor assembly (28) being pivotable about a pivot axis substantially parallel to the longitudinal axis, and a cutting wheel (22) driven by the motor assembly (28), the cutting wheel having a plane substantially parallel to the pivot axis; and a switch (on/off switch; 300) electrically connected to the motor assembly (28) and disposed on the support assembly (32/34/36) so that, when the motor assembly is

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pivoted about the pivot axis, the switch remains stationary, wherein the support assembly comprises a support member (i.e. 32) disposed on at least one of the base (12) and frame assembly, and a generally U-shaped member (i.e. locking rod, 62) having first and second legs (see Figure 3) with the switch (300) being disposed on the generally U-shaped member and the motor assembly (28) pivotally supported by the first and second legs. It is noted that the term “disposed on” is being interpreted as broadly as “attached or connect to.”

However, Ceroll does not disclose a table slidably disposed on the first rail, the table being movable in a direction substantially parallel to the longitudinal axis.

However, attention is directed to the Wang table saw, which discloses an attachment table for use with table saws. The table extension provides a conveniently adjustable and extendable platform assembly for attaching to a working table to support workpieces that extend beyond the work table. One having ordinary skill in the art at the time of the invention would have been similarly motivated to have incorporated the extending table platform of Wang onto the Ceroll work table for the similar purpose of creating a larger working table to support workpieces of greater size. Therefore, the modified device of Ceroll comprises a table (Wang, 30) slidably disposed on a first rail (i.e. Wang 12/18), the table being movable in a direction substantially parallel to the longitudinal axis.

In regards to claim 68, the modified device of Ceroll discloses wherein the motor assembly (28) is pivotally supported by the first and second legs (63).

In regards to claim 69, the modified device of Ceroll discloses wherein the support member (32) includes an electrical outlet (i.e. for a power cord; paragraph [0045])..

11. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable Griffin (U.S. Patent 4,055,206) in view of Miyamoto. (U.S. Patent 4,958,544). The modified device of Griffin is silent as to the material of the frame (table legs) and therefore does not disclose that the frame is made of aluminum. However, it is old and well known to create supports from aluminum as aluminum is a strong and cheaply processed material. It would have been obvious to one having ordinary skill in the art at the time the invention was made to constructed the Griffin frame from aluminum, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

In re Leshin, 125 USPQ 416.

12.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Cooper (U.S. Patent 5,937,924); Sproat, Jr. (U.S. Patent 4,497,353).

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LAURA M. LEE whose telephone number is (571)272-

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8339. The examiner can normally be reached on Monday through Friday, 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on (571) 272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Laura M Lee/
Examiner, Art Unit 3724
5/08/2008

/Boyer D. Ashley/
Supervisory Patent Examiner, Art Unit 3724